

FILED

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

2020 FEB 20 PM 12:30

In Re:) CHAPTER 11 CLERK
) US BANKRUPTCY COURT
) DISTRICT OF DELAWARE
EARTH FARE, INC., et al.¹) CASE NO. 20-10256 (KBO)
) (Jointly Administered)
)
Debtors¹.)
)

OBJECTION OF FURY'S FERRY SHOPPES, LLC TO FIRST NOTICE OF
POSSIBLE ASSUMPTION AND ASSIGNMENT AND CURE AMOUNTS WITH
RESPECT TO EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF
THE DEBTORS

COMES NOW Fury's Ferry Shoppes, LLC ("Creditor"), landlord of the Earth Fare Store #310, located within the Fury's Ferry Shopping Center at 366 Fury's Ferry Road, Martinez, Georgia 30907, a creditor in the above-styled action, and gives notice that it objects to the Cure Amount of \$74,710.90 proposed in the above captioned Notice, filed by the Debtors on February 7, 2020, Docket Number 70 (the "Notice").

In support of its objection, Creditor states as follows:

1. Debtors filed as Exhibit A to the Notice, a schedule of Cure Amounts for Unexpired Leases that may be assumed and assigned pursuant to Debtor's Notice.
2. Included under Exhibit A is the Creditor's lease at the Fury's Ferry Shopping Center in Martinez, Georgia.
3. The Notice lists the Cure Amount as \$75,710.90.
4. The listed amount is incorrect.

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Earth Fare, Inc. (3936) and EF Holdings, Inc. (8084). The mailing addresses for each of the Debtors is 220 Continuum Drive, Fletcher, North Carolina 28732.

5. Prepetition amounts totaling \$11,683.75 for the 2019 Common Area reconciliation remain outstanding on Debtor's ledger and should be included in the Cure Amount. An accounting is set forth on the attached Exhibit A.

WHEREFORE, Creditor hereby gives notice of the correct cure amount according to its books and records of \$87,394.67.

Respectfully submitted this 18th day of February, 2020.

FURY'S FERRY SHOPPES, LLC
BY: Hull Property Group, LLC
ITS: Managing Agent

By: Ashley W. Dolce
Ashley W. Dolce, Agent for Creditor
1190 Interstate Parkway
Augusta, Georgia 30909
(P) 706.434.1728
(F) 706.863.4933
(E) adolce@hullpg.com

Exhibit A = Earth Fare, Inc - Cure Amount

Description of Charge	Amount Due	Due Date	Number of Days Interest Has Accrued	Date Payment Received	Payment Amount	Subtotal	Late Fee	Late Fee	Interest	Amount Owed
2019 Tax Reconciliation	\$25,864.58	27-Nov-19	83			\$25,864.58				\$25,864.58
CTI	\$2,154.31	01-Dec-19	79			\$2,154.31				\$2,154.31
Rent	\$21,543.13	01-Dec-19	79			\$21,543.13				\$21,543.13
CTI	\$2,154.31	01-Jan-20	48			\$2,154.31				\$2,154.31
Rent	\$21,543.13	01-Jan-20	48			\$21,543.13				\$21,543.13
2019 CAM Reconciliation	\$11,683.75	22-Jan-20	27			\$11,683.75				\$11,683.75
February 1-3, 2020 Prepetition CTI	\$222.86	01-Feb-20	17			\$222.86				\$222.86
February 1-3, 2020 Rent	\$2,228.60	01-Feb-20	17			\$2,228.60				\$2,228.60
						\$87,394.67	\$0.00	\$0.00	\$0.00	\$87,394.67

Today's Date 18-Feb-20
 10.000%



January 12, 2020

Earth Fare, Inc.
Attention: Real Estate Accounting
220 Continuum Drive
Fletcher, NC 28732

**Re: Earth Fare - Store #310
Fury's Ferry Shoppes - Augusta, GA
2019 CAM Reconciliation**

Dear Tenant:

In accordance with the terms of the Lease Agreement, your share of the Common Area Expenses has been calculated. Enclosed is an invoice of the expenses along with the calculation of your share which totals \$11,683.75.

Please remit the amount shown for the reconciliation as summarized below.

Reconciliation amount including applicable tax due \$11,683.75

If you have any questions regarding this matter, please do not hesitate to contact me. My direct number is (706) 434-2709 or email me at hbeitzel@hullpg.com.

Very truly yours,


Hank Beitzel
Lease Compliance

JURYS FERRY SHOPPES, LLC - AUGUSTA, GA
RECONCILIATION OF COMMON AREA EXPENSES
FOR THE YEAR ENDED DECEMBER 31, 2019

EARTH FARE #310

TENANT'S SQUARE FOOTAGE	34,364
GROSS LEABLE SQUARE FOOTAGE	64,371
TENANT'S PRO RATA SHARE	<hr/> 53.3843%
COMMON ARE EXPENSES (SEE ATTACHED)	\$66,276.35
TENANT'S PRO RATA SHARE	53.3843%
TENANT'S SHARE	<hr/> \$35,381.16
TENANT'S CAP - COMMON AREA EXPENSES	\$36,746.14
LESS TENANT'S ESCROW PAYMENTS	(23,697.41)
BALANCE OWED - COMMON AREA EXPENSES	<hr/>\$11,683.75

**FURYS FERRY SHOPPES LLC
COMMON AREA EXPENSES
FOR THE YEAR ENDED DECEMBER 31, 2019**

ELECTRICITY	\$5,687.26
GROUNDS MAINTENANCE	7,869.94
INSURANCE	4,618.73
PARKING LOT EXPENSE	26,977.25
SECURITY	0.00
SWEEEPING	5,535.00
WATER / SEWER - EXTERIOR USAGE	248.86
EXTERIOR MAINTENANCE	6,077.57
PROPERTY REPAIRS	617.00
15% ADMINISTRATIVE FEES	<u>8,644.74</u>
 TOTAL COMMON AREA EXPENSES	 \$66,276.35

Hank Beitzel

From: Hank Beitzel
Sent: Sunday, January 12, 2020 3:41 PM
To: Whitney Orr
Subject: EARTH FARE #310 - AUGUSTA, GA ** 2019 CAM RECONCILIATION
Attachments: 2652_001.pdf

Whitney,

I have attached the 2019 CAM reconciliation. Please remit payment to our office in Augusta, GA.

Thanks.
Hank

Hank Beitzel
Lease Compliance Mgr /
Internal Audit Director

Hull Property Group
Gemini Construction Company
1190 Interstate Parkway
Augusta, GA 30909
O. 706-434-2709 / F 706-868-7457
www.hullpg.com

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)
Debtors¹.)
)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Creditor's *OBJECTION OF FURY'S FERRY SHOPPES, LLC TO FIRST NOTICE OF POSSIBLE ASSUMPTION AND ASSIGNMENT AND CURE AMOUNTS WITH RESPECT TO EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF THE DEBTORS* was delivered via Federal Express to the following parties:

- (i) Young Conaway Stargatt & Taylor, LLC
Rodney Square
100 North King Street
Wilmington, Delaware 19801
Attn: M. Blake Cleary, Esq., Sean T. Greecher, Esq. and Ian J. Bambrick, Esq.
- (ii) Chapman & Cutler, LLP
111 West Monroe Street
Chicago, Illinois 60603-4080
Attn: Stephen R. Tetro II, Esq., and Aaron M. Krieger, Esq.
- (iii) Office of United States Trustee for the District of Delaware
855 King Street, Suite 2207
Lockbox 35
Wilmington, Delaware 19801
Attn: Jane M. Leamy, Esq.
- (iv) Pachulski, Stang, Ziehl & Jones, LLC
Counsel to the Unsecured Creditors Committee
Attn: Bradford J. Sandler, Robert J. Feinstein and Colin R. Robins, Esqs.
919 N Market Street, 17th Floor
Wilmington, Delaware 19801

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